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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/854,334	05/11/2001	Dan Kikinis	007287.00035	7799
22907 7590 02/07/2008 BANNER & WITCOFF, LTD. 1100 13th STREET, N.W. SUITE 1200 WASHINGTON, DC 20005-4051			EXAMINER NGUYEN BA, HOANG VU A	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/854,334	Applicant(s) KIKINIS ET AL.	
	Examiner Hoang-Vu A. Nguyen-Ba	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-16, 18-31, 33 and 34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) -5, 7-16, 18-31 and 33-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to the amendment filed December 3, 2007.
2. Claims 1-5, 7-16, 18-31 and 33-34 remain pending. Claims 1, 12 and 23 are independent claims.

Response to Amendments

3. Per Applicants' request, Claims 1, 4, 5, 7-13, 15-16, 18-23, 25-29, 31 and 33-34 have been amended and Claims 6, 17 and 32 have been canceled.
4. The objection to the drawings is withdrawn in view of Applicant's amendments to the drawings and related portions in the specification.
5. The objection to the specification is withdrawn in view of the Applicant's amendments to the claims to no longer recite the 3D EPG aspect of the invention.
6. The objection to Claims 23 and 28 is withdrawn in view of Applicant's amendment to these claims to remove the identified terms that lack proper antecedent basis.

Response to Arguments

7. Applicant's arguments in the Remark section of the amendment have been fully considered but they are not persuasive. The following is an examiner's response to Applicant's arguments.

With respect to amended Claims 1, 12 and 23, Applicant has essentially argued that Martino does not teach or suggest a second object defining a interactive component having localized content and generating an EPG by combining the second object with a first object defining an appearance of the EPG. Applicant's arguments have been addressed in the rejection of these claims. See paragraph 9 of the present

Office action. It is further noted that additional portions of Martino have been cited to fully address Applicant's arguments that are based on the amended claims.

With respect to Claim 8, Applicant has essentially argued that there is no teaching or suggestion in Martino that a world is chosen based on selected content. This argument has been addressed in the updated rejection of Claim 8. See paragraph 9 of the present Office action.

With respect Claims 7, 10, 11, 18-22 and 28-34, Applicant's arguments that the combination Martino-Finseth fails to teach or suggest features claimed in Claims 1, 12 and 23 and thus these claims are allowable for at least these reasons. Applicant's arguments with respect to Claims 1, 12 and 23 have been addressed in the updated rejection of these claims in paragraph 9 of the present Office action.

With respect Claim 31, Applicant has argued that Martino does not teach or suggest the display of programming information in either of the search, profiling and overview worlds. Applicant's arguments have been addressed in the updated rejection of this claim in the present Office action.

All Applicant's arguments have been addressed. Amendments to the claims necessitated new grounds (e.g., different cited portions of the references) of rejection based on the same art of record.

Claim Rejections – 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejection under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States and was published under Article 21(2) of such treaty in the English language

9. Claims 1-5, 8-9, 11-16, 20 and 22-27 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,662,177 to Martino et al. ("Martino").

Claim 1

Martino discloses *a system, comprising:*

a memory (see at least FIG. 1, memory inside the computer 240) storing a first object (see at least 4:31-45) and a second object, the second object configured to define an interactive component for display in an interactive electronic programming guide (EPG), wherein the interactive component includes localized content (see at least 2:6 – 4:30; e.g., the claimed second object is interpreted as being the software module to display the search world or the profile world); and

a processor (see at least FIG. 1, CPU inside the computer 240) configured to generate the interactive EPG by combining the first and second objects (see at least FIGs. 14-17), wherein an appearance of the interactive EPG is defined by the first object (see at least 4:31-45).

It is noted that the feature "localized content" is deemed inherent to Martino because a user in San Francisco, CA may not receive the same television programs as one in Alexandria, VA notwithstanding they are affiliated to the same television network, e.g., CBS in FIG. 8.

Claim 12

Claim 12 is a method claim that corresponds to Claim 1. Therefore, Claim 12 is rejected for the same reasons as discussed in Claim 1.

Claim 23

Claim 12 is an apparatus claim (i.e., *a machine-readable storage medium tangibly embodying a sequence of instructions executable by a processor*) that corresponds to Claim 1. Therefore, Claim 23 is rejected for the same reasons as discussed in Claim 1.

Claims 2, 14 and 24

Rejections of base claims 1, 12 and 23, respectively are incorporated. Martino further discloses *wherein the system comprises a set-top box, a television, or a VCR* (see at least FIG. 1, devices 230, 240; 9:14-15).

Claims 3 and 25

Rejections of base claims 1 and 23, respectively are incorporated. Martino further discloses *wherein the system includes a plurality of drivers, one of the drivers communicating with a separate unit to replenish programming information* (see at least 6:50 – 7:54).

Claims 4, 13, 15 and 26

Rejections of base claims 1, 12 and 23, respectively are incorporated. Martino further discloses *wherein the memory further stores a third object corresponding to content information to be displayed in the EPG, and wherein the processor is configured to generate the interactive EPG by further combining the first and second objects with the third object* (see at least 2:21-29; the claimed third object is being interpreted as the software module to display the overview world).

Claims 5, 16 and 27

Rejections of base claims 1, 12 & 23 and intervening claims 4; 13, 14 & 24, 26, respectively are incorporated. Martino further discloses *wherein the third object includes at least one of a schedule times, channel identification and a title* (see at least FIGs. 4-17, wherein in FIG. 4, e.g., Day, Time, Channel, Keyword).

Claim 8

The rejection of base claim 1 is incorporated. Martino further discloses *wherein the first object is selected from a plurality of world objects based on selected content, wherein each of the plurality of world objects defines a different world* (see at least 2:21 – 3:14; 5:22-43; 7:55-65, note that these portions are cited in response to Applicant's arguments at p. 11 that there is no teaching or suggestion in Martino that a world is chosen based on the selected content).

Claim 9

Rejections of base claim 1 and intervening claim 8 are incorporated. Martino further discloses *wherein the first object defines a virtual world and a subset of the virtual world is displayed as a matrix of rectangular boxes containing current program information* (see at least FIG. 10).

Claim 11

The rejections of base claim 1 is incorporated. Martino further discloses *a user interface configured to receive user interaction with the localized content of the interactive EPG* (see at least 2:21 – 3:15).

Claim 20

The rejection of base claim 12 is incorporated. Martino further discloses *wherein the first object defines a virtual world and wherein a subset of the virtual world is displayed as a matrix of rectangular boxes containing current program information* (see at least FIG. 10).

Claim 22

The rejection of base claim 12 is incorporated. Martino further discloses *further comprising generating a user interface coupled to the EPG and configured to receive user interaction with the localized interactive component* (see at least 2:21 – 3:15).

Claim Rejections – 35 USC § 103

10. The following is a quotation of the 35 U.S.C. § 103(a) which form the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 7, 10, 18-19, 21-22 and 28-34 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Martino, as applied to the corresponding base and intervening claims, in view of U.S. Patent No. 6,754,906 to Finseth et al. (“Finseth”).

Claim 7

The rejections of base claim 1 and intervening claim 4 are incorporated. Martino does not specifically disclose *wherein the second object is configured to provide non-EPG e-commerce interactivity*. However, in an analogous art, Finseth teaches displaying a

Main Menu, which provides a user interface for purchasing items through an electronic catalog (see at least FIG. 9). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to combine Finseth with Martino. One of ordinary skill in the art would have been motivated to implement such a combination for the sake of providing user with e-commerce capabilities to Martino.

Claim 10

The rejections of base claim 1 and intervening claims 4 & 7 are incorporated. Martino does not specifically disclose *wherein the second object is uploaded in real time*. However, this feature is deemed inherent to Finseth because the electronic catalog (see at least 20:27-29) disclosed in Finseth should be updated in real-time to reflect the inventory of items in stock so that when a user searches the electronic catalog for an purchasing item and /or places an order, the item(s) is/are available or shown to be available in the near future. Without the real-time operating capability, e-commerce would be inefficient and the sales company would lose credibility and business very quickly.

Claims 18 and 28

Pursuant to Claim 18, the rejection of base claim 12 is incorporated.

Pursuant to Claim 28, the rejection of base claim 23 is incorporated.

Martino does not specifically disclose *wherein the second object is a non-EPG e-commerce objects*. However, in an analogous art, Finseth teaches software module to display a Main Menu, which provides a user interface for purchasing items through an electronic catalog (see at least FIG. 9). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to combine

Finseth with Martino. One of ordinary skill in the art would have been motivated to implement such a combination for the sake of providing user with e-commerce capabilities to Martino.

Claims 19 and 29

Rejections of base claims 12 & 23 and intervening claims 13-18 & 24-28 are respectively incorporated. Martino further discloses *wherein the first object is selected from a plurality of world objects based on programming content selected by a user* (2:21 – 3:14; 5:22-43; 7:55-65).

Claim 30

The rejection of base claim 23 and intervening claims 24, 26-29 are incorporated. Martino further discloses *wherein the first object defines a virtual world and wherein a subset of the virtual world is displayed as a matrix of rectangular boxes containing current program information* (see at least FIG. 10).

Claims 21 and 33

Pursuant to Claim 21, rejections of base claim 12 and intervening claim 18 are incorporated.

Pursuant to Claim 33, the rejection of base claim 23 is incorporated.

Martino does not specifically disclose *uploading the second object in real time*.

However, this feature is deemed inherent to Finseth because the electronic catalog (see at least 20:27-29) disclosed in Finseth should be updated in real-time to reflect the inventory of items in stock so that when a user places an order, the item(s) is/are available or shown to be available in the near future. Without the real-time operating

capability, e-commerce would be inefficient and the sales company would lose credibility and business very quickly.

Claim 34

The rejections of base claim 23 and intervening claim 33 are incorporated. Martino further discloses *further comprising generating a user interface coupled to the EPG and configured to receive user interaction with the localized interactive component* (see at least 2:21 – 3:15).

Claim 31

Rejections of base claim 23 and intervening claims 24, 26-30 are incorporated. Martino further discloses *wherein the first object is user-selected from a plurality of world objects, each of the plurality of world objects defining a different world for displaying the programming information* (see at least 2:21 – 3:15, 5:22-43, 7:55-65; in response to Applicant's arguments that Martino does not teach or suggest the display of programming, it is noted that with the user can indicate that dramas and action movies are preferred in the filtering process and the search will display the channel(s), showtime(s) – i.e., programming information -- of these preferred movies).

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoang-Vu "Antony" Nguyen-Ba whose telephone number is (571) 272-3701. The examiner can normally be reached on Tuesday-Friday from 7:00 am to 5:30 pm.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, John Miller can be reached at (571) 272-7353.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2600 Group receptionist (571) 272-2600. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

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Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

A handwritten signature in black ink, reading "Anthony Nguyen-Ba". The signature is written in a cursive style with a large, stylized initial 'A'.

ANTONY NGUYEN-BA
PRIMARY EXAMINER
TECHNOLOGY CENTER 2100
February 5, 2008